



## EXTRAORDINARY

### PART II—Section 3

## PUBLISHED BY AUTHORITY

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**No. 34] NEW DELHI, MONDAY, FEBRUARY 11, 1952**

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### MINISTRY OF LABOUR

#### NOTIFICATION

*New Delhi, the 11th February 1952*

**S.R.O. 257.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following awards of the Industrial Tribunal, Calcutta, in respect of certain applications under section 33-A of the said Act preferred by workmen of banking companies.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

#### Section 33-A—Application No. 32

#### CENTRAL BANK OF INDIA LTD.

In the matter of an application dated 7th August 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Shanti Swarup Dixit, Ex-Godown Keeper, Central Bank of India, Hisrikh, through U.P. Bank Employees Union.

#### *Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees' Union for the applicant.

Shri N. B. Wadia, Chief Agent, Lucknow, for the Bank.

#### AWARD

#### SHANTI SWARUP DIXIT

1. This is one of the 140 applications filed under section 33-A of Industrial Disputes Act (as amended), emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the

U. P. Bank Employees' Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The essential facts of this case briefly summarised are that Shri Dixit was an old employee of the Central Bank and was working as a permanent godown keeper at Misrikh in Sitapur district when a complaint was made against him by one Pandit Sukhbasi Lal, a businessman of Misrikh about his absence from the station on 27th November 1950. It was alleged that Pandit Sukhbasi Lal's firm wanted to make storage of certain goods, but on account of the absence of godown keeper they were put to much inconvenience and trouble. The management called upon Shri Dixit to explain his conduct in this respect as to why he had left the station without permission at that seasonal time. The petitioner submitted his explanation and while denying the charge stated that Pandit Sukhbasi Lal's complaint against him was due to previous happenings about which he had already sent reports and that this constituent wanted to take undue advantage from the Bank and had made this complaint in order to get the petitioner removed from this place as he was not prepared to accommodate him in the manner he desired. Shri Dixit in his explanation, however, made certain observations against the management and referred to some previous cases of this nature in which no action was taken and asserted that the charge now levelled against him was designedly made in order to get him transferred or dismissed on false accusations although he had never failed in watching the interests of the Bank. Shri M. L. Kakkar, Agent, Sitapur Branch, who made an enquiry into this case in the first instance in his report Ex. 4 pointed out that it was very necessary that pending further enquiry and result Shri Dixit should be transferred immediately from Misrikh. The Board of Directors, however, on going through his explanation found that it was regrettable that Shri Dixit in his anxiety to strengthen his case made wild allegations against Sitapur Branch Agent through U.P. Bank Employees' Union and since the Treasurer was not agreeable to keep him under guarantee any longer, he deserved punishment of dismissal from service. In the closing paragraph of the order passed by the Managing Director, a copy of which (Ex 5) was placed on the record, it was further pointed out that with a view not to mar his future prospects he was simply discharged by giving him a month's salary and Dearness Allowance.

4. Now it was argued on behalf of the petitioner that Shri Dixit was present at the station on 27th November 1950 and it was not correct to say that he absented himself from the station and reference was made to the letter of Raja Ram, Chowkidar, sent to the Agent in this connection and another letter, dated 15th December 1950, sent by about half a dozen firms of Misrikh Mandi to the Manager Sitapur to the effect that Shri Shanti Swarup Dixit was present at the Mandi on 27th and 28th December 1950 and that Pt. Sukhbasi Lal was a man of such type who was unnecessarily complaining against some one or other. It was further argued that Pt. Sukhbasi Lal wanted to get illegal work from the petitioner viz to ask for storage without stock as well as delivery of goods without delivery order and had been threatening him in various ways to take revenge upon the petitioner for not having complied with his wishes. Reliance was placed on documentary evidence comprising over Exhibits A, B and C. Ex. A is a letter, dated 10th March 1950 sent by the Agent Central Bank of India, Sitapur Branch, to Messrs. Sita Ram Shew Kumar, the firm of Pt. Sukhbasi Lal, whereby the firm was called upon to explain several irregularities in their account. Ex. B is another letter, dated 1st April 1950, sent by the Agent to the same firm whereby the firm was called upon to explain as to why they had not arranged the stock of godown No. 379 containing 700 bags Arhar and 550 bags groundnuts. Similarly, Ex. C is another letter dated, 9th June 1950, sent by the Agent to the same firm wherein the firm was told that while inspecting their godown it was noticed that it was not properly arranged. It was urged on the strength of this evidence that the accounts of Pt. Sukhbasi Lal's firm had been irregular and the storage of the stock against Bank dues was not proper. It was next urged that Shri Dixit had made a report against this firm on a previous occasion in 1949 referred to in letter, dated 26th December 1949 (Ex. 3), and that Pt. Sukhbasi Lal bore enmity against him on that account.

5. On the other hand the Bank representative repudiated the above allegations and so far the absence of Shri Dixit on 27th was concerned relied on annexure

No. 2 filled with the written statement, a copy of the complaint dated, 29th November 1950, received from Pt. Sukhbasi Lal, partner of Messrs. Sita Ram Shiva Kumar of Misrikh, and Annexures 4, 5, 7, 8 and 9 letters emanating from the firms of Bishambhar Nath Kapur, Ram Nath Kishenlal, Punjab Singh Joginder Singh, Birajlal Radhakishan and Abdul Sarkar Ijllu Main wherein they have stated that they had signed the document, dated 15th December 1950, relied upon by the other side regarding his presence at Mandi on 27th and 28th December 1950, on the request of Shri Dixit in order to save him from dismissal. Reliance was also placed on the report of the Agent (Ex. 4) and the decision of the Managing Director (Ex. 5), as well as the circular, dated 12th January 1950 (Ex. 6), relating to the conditions laid down for the grant of bonus. Shri Wadia, Chief Agent of Central Bank of India, Lucknow, arguing on behalf of the Bank further explained that no witness was examined at the time of enquiry and Sitapur Agent made oral enquiries only from the Mandi and sent his report, dated, 8th December 1950, (Ex. 4), wherein he suggested the transfer of Shri Dixit from Misrikh. This report was sent to the Chief Agent, Lucknow, whereupon the Treasurer withdrew Shri Dixit's guarantee which he had given in his favour at the time of the petitioner's appointment. On further enquiry it was, however, found that there was some conflicting evidence with regard to his absence on 27th and 28th November 1950 and the whole case was sent up to the head office for a decision. The head office on the examination of all the evidence came to the conclusion that the complaint against the petitioner for having absented from duty on the 27th November 1950 was proved and consequently discharged him from service. Shri Wadia had no reply to the legal objection raised by the other side that under the amended Act it was incumbent upon the employer to obtain prior permission under section 33 even if it was a case of misconduct. Reference was however made to para. 322 of the All India Industrial Tribunal award and it was maintained that in the purview of the directions laid down in that paragraph the services of any permanent man could be dispensed with on payment of three months salary.

6. Now on the assessment of the evidence brought on the record and the appreciation of the arguments of both sides I am of the considered opinion that the charge levelled against Shri Dixit was not substantiated by independent cogent evidence. The conduct of Pandit Sukh Basi Lal, Partner of the firm Messrs. Sita Ram Sheo Kumar when judged in the light of the documentary evidence brought on the record (Exs. A, B and C) gives rise to certain misgivings and it appears that the complaint was not genuine. Shri Dixit in his detailed explanation (Ex. 2) although went out of the way to throw mud upon others instead of meeting the charge levelled against him in a straight-forward manner yet explains good deal when he comes to the reply to the actual charge 'that he was absent on 27th November 1950'. This part of his statement may well be reproduced for proper appreciation of the alleged absence.

"(Ex. 2-p.4): "It is the allegation of Pt Sukh Basi Lal and yourself that I was not present on 27th November 1950 at the station and in support of the fact he included the godown-Chowkidar also. I have to say in this connection when my whole family resides here, where I could have gone to leave the station. I have continually worked in this Mandi on dates 27th, 28th, and 29th and in support of my statement I enclose herewith a letter duly signed by all the parties of the Mandi who deal with the Bank, which would reveal the state of affairs of the parties. Pt. Sukh Basi Lal filed report against me due to previous happenings. He did not talk to the godown-keeper Chowkidar nor he made any search for me. He met me in the morning on 28th at the train time outside the gate of the Mandi and told me that he wants to have the storage made. I went running with him to his shop, he asked me to include the stock lying in the court-yard also in the storage as I am in great need of money and the whole stock shall be kept in the godown by the evening. I refused doing so, he being angry came to the Bank and then he did not tell me anything for storage.

Again on 29th in the morning I went to his shop and asked him if any storage is to be made. He replied I shall have the storage made by some other godown-keeper. Seeing him angry I came back very quickly and afterwards I came to know that he has gone to Sitapur. There in consultation with the high authorities he made this plot that I have entirely refused to do his work. At the very time the high authorities and the party phoned the treasurer without taking any explanation to this effect. Immediately Banwari Lal Bajpai was sent from Sitapur to make his storage. Banwari Lal Bajpai when he came

over here, in his presence the goods were being stored in the godown and in my presence he said to Banwari Lal Bajpai that after 2 or 3 hours the whole stock shall be kept in the godown when you can prepare the storage. From this fact it is revealed that the party wanted to make me storage of that stock also which had no security or possession, how I could have done this work blindly, when several times the inspectors had objected to this, when his shop is situated in a lonely place at the distance of one furlong from the Ganj where there is no population."

7. Now on the examination of the facts stated by both sides on this alleged incident of absence one can safely read in between the lines that Pt. Sukhbasi Lal wanted no doubt the storage of his goods but it is wrong to say that he failed to do so on account of the absence of the godown-keeper. The trouble appears to have arisen over the goods lying in the courtyard and the godown-keeper refused to treat that stock in the list. The relations between the firm and the Godown-Keeper moreover as evidenced from Ex. 3 were not cordial and Pt. Sukhbasi Lal in all probability wanted the transfer of Shri Dixit. The same was suggested by the Agent but the management naturally did not like the attitude of the employee adopted in his explanation striking right and left and instead of meeting his case directly maligning his superior officers and the management itself. This reason finds prominent place in the decision of the Managing Director also as borne out from Ex. 5. The other reason assigned for his dismissal viz. that he has proved thoroughly unreliable and since the Treasurer was not willing to keep him and their guarantee is not supported by any evidence. I am, therefore, of the opinion that the management was not justified in dispensing with the services of an old employee on the complaint of a constituent against whom they had occasions to point out that his stocks were not properly arranged and his account was not regular. In these doubtful circumstances the sacking of an old employee who had as much right upon his master as the constituents have upon the Bank, was not warranted on merits of the case and strikes at the basic rights and security of service.

The other plea that the treasurer had withdrawn his guarantee is also untenable inasmuch as the employees of the Cash Department are as good employees of the Bank as others and when substantial security is forthcoming this condition should not stand in the way of security of service. The discharge order furthermore is technically bad in law for want of permission although in the matter of permission Bank appears to have acted under the directions laid down in Para. 322 of All India Tribunal in good faith. The enquiry moreover was made orally in a perfunctory manner and the petitioner was not placed under regular enquiry as required by legal procedure.

In the result I would allow the petition and direct that Shri Dixit be taken back in service within one month from the date when this award becomes operative. But in consideration of all facts and circumstances, he would get only six months back salary and allowances prior to reinstatement. Awarded accordingly.

K. S. CAMPBELL-PURI, *Chairman,*

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

3rd January, 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A—Application No. 31

CENTRAL BANK OF INDIA LTD.

In the matter of an application, dated 5th June 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Madan Mohan Misra, Ex-Asst. Cashier, Central Bank of India Ltd., Kanpur, through U. P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant

Shri P. A. De Vitre, Chief Agent, Kanpur, for the Bank.

## AWARD

MADAN MOHAN MISRA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes, Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India, Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. Shri Misra joined the Bank's service on 26th April 1950 and continued to work till 14th October 1950. His services were terminated by Bank letter, dated 12th October 1950, and his complaint put briefly is that he was working on permanent basis and his services were terminated on account of his Trade Union activities. It was alleged *inter-alia* that he was an active member of the U.P. Bank Employees Union and had actually taken part in the Strike on 15th July 1950 although he fainthly applied for leave on the ground of some religious ceremony. Lastly, it was pleaded that his services were terminated during the pendency of the Tribunal's proceedings without obtaining prior permission as contemplated under section 33 of the Act.

4. The claim was resisted by the Bank on the ground that he was a probationer and was appointed on temporary basis and on the completion of six months period as his work was not found satisfactory his services came to close. It was further explained that his appointment was made in place of one Shri D. N. Tandon who had gone on leave as evidenced from his own original application Ex. 1-A, whereupon an endorsement was made in the following words:

"May be appointed in place of Dwarka Nath who is on long leave until he returns from leave.

Sd: B. Kapoor 26/4"

"Employed on usual terms as temporary Asst. Cashier from 27/4/50.

Sd. P. A. DeVitre 26/4".

Reliance was also placed on the register of attendance and wages and reference was made to the entry wherein Shri Misra was mentioned as temporary Assistant Cashier in the month of October 1950, when his services were terminated. It was further argued that the Bank was not at all aware of his trade union activities and it was not correct to say on his part that his services were terminated on account of his participation in the strike. Reliance was placed on Misra's letter dated 19th July 1950 (Ex. 3), wherein in paragraph 2 he states as under:

"Had I any intention to participate in the strike, I would not have applied for the leave at all; as the others have done who have gone on strike. Moreover I was present on the 13th July where the other Banks were observing partial strike and also there was picketing on our Bank.

As all of my family members including myself were performing Pooja and therefore I could not present the application personally, the man who brought my application to the office did not return home and inform me that I was required for the duty. No peon or cashier was sent to inform me of this order of yours."

It was argued that from the above quotation it follows that he had not taken part in the strike and the plea of his trade union activities was an after-thought. It was further emphasised that in case the management had to discharge him on account of his trade union activities, the management could have dispensed with his services when Shri D. N. Tandon resumed his duties after the expiry of the

leave. The fact however was that he continued till October 1950 when it was found that his services were no longer required. He was however given an offer to join either at Allahabad or Sultanpur which he himself did not accept. Shri Sekhri on behalf of the petitioner admitted that the said offer was made but further explained that the petitioner could not go to Allahabad as his uncle was seriously ill and subsequently died and that his case was one of victimization.

5. On the examination of the facts and the appreciation of the evidence I am satisfied that the plea of the complainant that he was appointed on permanent basis is negatived by the direct evidence brought on the record and the plea of victimization on account of trade union activities was not substantiated by any good cogent evidence. And the allegation of participation in the strike was further rebutted by the petitioners own statement quoted above from Ex. 3. In the circumstances the case does not call for any interference on merits and the legal objection *viz.* that prior permission was not obtained also is untenable inasmuch as in the case of temporary hands no such permission is needed for the simple reason that the employer during the probationary period has the discretion of confirmation or non-confirmation. In the result the complaint fails and the same is disallowed.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
3rd January, 1952.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A—Application No 15

NATIONAL BANK OF INDIA LTD.

In the matter of an application, dated 22nd May 1951, under section 33-A of the Industrial Disputes, Act\* (as amended) preferred by Shri Amar Nath Mehrotra of National Bank of India Ltd., Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U. P. Bank Employees Union for the applicant.  
Mr A. S. Harris, Manager, Kanpur Branch, for the Bank.

### AWARD

#### AMARNATH MEHROTRA

1. This is one of the 140 applications filed under section 33-A of Industrial Disputes, Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LB 2(19) dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U. P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, applications were divided into various groups owing to the identical nature of facts and some arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. Shri Mehrotra was discharged from service on certain charges of misconduct. A claim was preferred initially on his behalf against the order of discharge and was duly heard in the course of the hearing of Reference No. LR.2(273), dated 21st February 1950. The decision in his case was published in the U. P. State Bank disputes award (published in the *Gazette of India*, dated 15th September

1951). Shri Mehrotra however filed this application once again under Section 33-A on the same cause of action and notice was issued to the other side inadvertently as it was difficult to discriminate as to whether the applicant was the same man whose case was already decided.

4. The Bank representative raised a preliminary objection at the outset to this effect whereupon the Union representative did not press the claim and frankly stated that it was a mistake on the part of the applicant to have filed his claim once again which has already been adjudicated upon. The application needs no adjudication and the same is filed. The Bank did not press for cost and the question of cost was therefore not considered.

K. S. CAMPBELL-PURI, *Chairman*.

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

4th January 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 34

NATIONAL BANK OF INDIA LTD.

In the matter of an application, dated 4th June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Munshi Lal alias Munshi Khan, Peon, National Bank of India Ltd., Kanpur, through U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Mr. A. S. Harris, Manager, Kanpur Branch, for the Bank.

#### AWARD

##### MUNSHI LAL

1. This is one of the 110 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Elnat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. His case put briefly is that he was once suspended in July 1950 and on the intervention of the Regional Labour Commissioner, Kanpur was taken back in service; and that the Manager, Kanpur Branch was prosecuted by the Government for violating the provisions of Industrial Disputes Act in the matter of illegal suspension. It was maintained on his behalf that the management became inimical towards him and were on the look out to shunt him off from service. He was accordingly dismissed on 14th December 1950 during the pendency of the Tribunal's proceedings without having obtained previous permission as required under the Industrial Disputes Act. Shri Sekhri arguing on behalf of the applicant urged that it was a case of victimization and the services of the petitioner were terminated on account of the previous grudge.

4. Mr. Harris, the Bank representative, while explaining the position on behalf of the Bank averred that the previous incident which resulted in the petitioner's

suspension and subsequent reinstatement under the orders of the Regional Labour Commissioner had no bearing on the present cause of action which arose on account of the conviction of the petitioner Munshi Lal under the Gambling Act. It was submitted that the previous history was introduced in order to cloud the issue and in point of fact the Bank had no grudge against him and complied with the orders of the Regional Labour Commissioner, Kanpur, in taking him back in the service although prosecution of the Manager was not in order. It was further argued that the petitioner was found gambling within the premises of the Bank and was sent up by the police under the Gambling Act which resulted in his conviction. The management thereupon charge-sheeted him and gave him opportunity to submit his explanation which he actually did as borne out by Ex. 1. Reliance was placed on documentary evidence Ex. 2, Charge Sheet (Ex. 3), letter, dated 14th December 1950 and another letter dated 27th December 1950 (Ex. 4). The last letter reveals that the order of dismissal, dated 18th December 1950 was sent to the petitioner but he refused to take delivery and thereafter the order was posted on the notice board. The Union representative in reply emphasised on the prosecution of Mr. Clarke in connection with the illegal suspension referred to above and drew my attention to the copy of order of the Additional District Magistrate, Kanpur, dated 15th February 1950 which was filed with the complaint. I have looked into the order and without sitting on judgment over the order of the Additional District Magistrate would only say that the facts as set out in the order amply show that the suspension was not a substantial one and it was made as a subsidiary measure of security during the pendency of the criminal proceedings launched against the petitioner for having contravened the District Magistrate's order under Section 144 Cr. P. C. and as such this decision upon which reliance was placed by the Union does not constitute good evidence. The only other question which falls for consideration is as to whether the Bank had any grudge against the petitioner on account of the prosecution of Mr. Clarke and dismissed him from service on account of that malice.

5. Now it is not denied that he was convicted for gambling. It is too much to say that the Manager had anything to do with that incident when he was actually found gambling in the premises and was prosecuted under the Gambling Act. On merits the case accordingly is to be considered on fresh cause of action and as such after conviction by a competent Court it is naturally for the management to see as to whether they should allow the petitioner to continue in service after that conviction. The management decided to terminate his services and this Tribunal has no jurisdiction to interfere in the punishment they proposed for the simple reason that the action is supported by the verdict of a competent Court. The next question to be answered is with regard to the permission which admittedly was not obtained. Mr. Harris, contended that the provisions under Section 33 are not applicable on the facts of this case as order of dismissal was passed upon the finding of a competent Court and secondly that the Bank moved the Tribunal for granting necessary permission if it was technically required but the application was rejected on the ground that permission should have preceded the actual order of discharge. This argument of Mr. Harris was also capitalized by the other side on the ground that the Bank was conscious that permission was necessary and actually applied for it. On the appreciation of all the facts and circumstances I am of the opinion that technically permission was necessary under the amended Act. But in view of the previous conviction of Shri Munshi Lal under the Act the Bank appears to have taken the view in good faith that the same was not necessary and at the same time filed an application under Section 33 for the confirmation of the order of discharge. In these circumstances I do not think that any case has been made out for reinstatement and the application is disallowed.

K. S. CAMPBELL-PURI, *Chairman,*

Central Government Industrial Tribunal, Calcutta

CALCUTTA;

4th January 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A—Application No. 35

NATIONAL BANK OF INDIA, LTD.

In the matter of an application, dated 3rd June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Radehy Shyam Singh,



Peon, National Bank of India Ltd., Kanpur through the U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.

Mr. A. S. Harris, Manager, Kanpur Branch, for the Bank.

#### AWARD

**RADHEY SHYAM SINGH**

1 This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seizin without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representative of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The complaint of the petitioner in substance is that the applicant was discharged from service without having obtained the permission contemplated under Section 33 and as such the order of discharge is illegal. The Regional Labour Commissioner was also moved in this connection wherein the relief sought was two-fold: (1) for the payment of 45 days salary and (2) for reinstatement. It was next argued that the plea of the Bank that his work was not found satisfactory was not correct inasmuch as he was not given any opportunity to explain nor was charge sheeted in that connection. Finally, it was also urged that even if he worked as a probationer still the permission under Section 33 of the Act was necessary. Reliance was placed on the definition of 'workman' and it was maintained that all employees—probationers or permanent fall in the ambit of that definition. Reference was made in this connection to the following decisions:

- (1) Municipal Commissioner, Budge Budge Municipality Vs. P. R. Mukherjee & Ors. (Published in the Indian Factories Journal—page 80 Vol II—A judgment of the Calcutta High Court).
- (2) Napier Paint Works Vs. Their workmen (LLJ—August 1951—page 237).
- (3) Surat Borough Municipality Vs. Their Workmen. (LLJ—August 1951—page 266).

4. The Bank representative in reply submitted that the appointment of Shri Radhey Shyam Singh was of a temporary nature as borne out from his application dated 11th March 1950 (Ex. 1) and the letter addressed to him dated 8th March 1950 (Ex. 2). It was maintained that during the probationary period his work was not found satisfactory and the Bank had to terminate his services and that the permission contemplated under Section 33 in the circumstances was not necessary in this case.

(5) Now the documentary evidence (Exs: 1 and 2) brought on the record clinches the matter beyond any manner of doubt and it is crystal clear that the petitioner took his appointment for a fixed period of six months. The two documents Exs. 1 and 2 may well be reproduced, the legal objection raised by the union side and the legal precedents cited in support of the objection.

Ex. 1:

To

The Manager,  
National Bank of India, Ltd.,  
Kanpur.

Sir,

Most respectfully I beg to acknowledge your letter, dated 8th March 1950, for my service as probationer for a period of 6 months; I am quite agree with this probation and salary mentioned.

I hope you will kindly record my agreement.

Dated 11th March, 1950.

Yours faithfully,  
SD. Radhey Shyam.

Ex. 2:

Radhey Shyam,  
Kanpur.

8th March 1950.

With reference to your application, dated 2nd instant and our interview with you on the same day, we are prepared to appoint you on probation to our menial staff as a peon at a salary of Rs. 25 per mensem. You will be on probation for a period of six months during which period the Bank reserves the right to terminate your services without notice. Provided that at the end of the probation period your work is considered to be up to the standard required by the Bank, the question of your retention on the permanent staff will be given consideration.

Please acknowledge receipt.

SD:

Manager.

Now in both the decisions of West Bengal Tribunal and Bombay Tribunal the learned adjudicators have made it very clear in their awards that the termination of the services of a workman who was engaged temporarily for a fixed period does not amount to the violation of Section 33 if his services are terminated on the expiry of that period. In the case of Napier Paint Works Ltd., and their workmen (Published in Labour Law Journal—August 1951), the learned adjudicator distinguished his earlier award given in Indian Photo Engraving Company and Nagendra Nath Basu (published in Labour Law Journal April 1951), on the ground that in the case of workmen of Napier Paint Works Ltd., the appointment was neither made for a specified period nor for work of temporary nature. In the circumstances these decisions which appear to have been made on the particular merits of each case, are of no avail to the petitioner. In this case the period was not only specified in the order of appointment but the petitioner furthermore agreed with this probationary period as stated by him in his application (Ex. 1) reproduced above. The application is devoid of any substance and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

4th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 97

ALLAHABAD BANK LTD.

In the matter of an application, dated 3rd July 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Jagan Nath Prasad Misra, an employee of Blindki Branch of Allahabad Bank Ltd., through the U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union, for the applicant.

Shri Rameshwar Singh, Agent, Lucknow Branch, for the Bank.

**AWARD****JAGANNATH PRASAD MISRA**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. The hearing was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This is a case of transfer and the grievance of the petitioner is that he was transferred to Bindki from Mirzapur on 27th August 1950 without his consent, as he used to participate in trade union activities which were not liked by the management and his transfer as such amounted to victimization. It was also alleged, *inter alia* that the transfer was illegal having been made without obtaining the permission of the Tribunal and the provisions of Section 33 were thereby infringed.

4. The complaint was resisted by the Bank on two grounds. Firstly that the transfer does not amount to change or alteration in the conditions of service and secondly that the transfer was made in the exigencies of service because the petitioner was not given co-operation to the Manager and other members of the staff and was reported to have been living beyond his standard and incurring debts. It was also alleged that he was at times found withholding cash given to him for payment to parties.

5. Now on merits no evidence was led in support of the allegations made against the petitioner regarding the charge of withholding cash given to him for payment to the parties or on the question of non-co-operation with the staff. In the absence of any evidence, the charge cannot be sustained. The legal objection however goes to the root of the case and as already held by me in some other cases I am of the opinion that transfer does not constitute the element of basic structure of service. Permanent retention at one place has never been the condition of service and transfer accordingly does not amount to any change in the conditions of service as contemplated under Section 33. In the result the petition fails on this short ground and is rejected.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
4th January, 1952.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 124

**BANK OF BARODA, LTD.**

In the matter of an application dated 31st July 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Hari Mohan, Sweeper of Bank of Baroda, Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.  
Shri S. L. Vaid, Assistant Accountant Kanpur Branch, for the Bank

**AWARD**

**HARI MOHAN, Sweeper**

1. This is one of the 140 applications under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The facts are short and simple and may be summarised as below. The petitioner was working as part time sweeper on a salary of Rs. 12. He absented himself from duty for some time and the Bank engaged the services of another man. His complaint is that his services were terminated without assigning any reason and that the discharge was illegal inasmuch as the same was made without having obtained the prior permission of the Tribunal as contemplated under Section 33 of the Act. It was next argued on his behalf by the Union representative that he was a permanent hand and in case he had absented he must have been charge-sheeted and called upon to explain as to why he was absent.

4. The stand taken up by the Bank was that the petitioner was never discharged but he left the service on his own accord and did not turn up for some days whereupon another man was appointed. Shri Vaid, Bank representative, arguing on behalf of the Bank stated that the petitioner was drawing Rs. 12 only as a part time servant and was not a permanent employee as he was working at various other places. The Bank representative in support of the stand taken up by them produced the copies of the statements of Shri A. K. Mukherjee and Shri Panchan Singh, Sepoy which reveal that the sweeper refused to return to his work on the present salary and although a peon was sent to him to come and see the Agent but the sweeper did not turn up. It appears that he was not satisfied with his present pay and resorted to the method of absenting himself in order to put pressure for increment in the salary. This move however did not prove effective and the management had no alternative but to engage another man. The facts further indicate that he was not working on permanent basis and in those circumstances it is idle to urge on his behalf that his services were dispensed with in bad faith. The complaint is without merit and the same is disallowed.

**CALCUTTA;**  
**4th January 1952.**

**K. S. CAMPBELL-PURI, Chairman,**  
**Central Government Tribunal, Calcutta.**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

**20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.**

**Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.**

**Section 33-A—Application No. 26**

**PUNJAB NATIONAL BANK LTD**

In the matter of an application dated 4th June 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri S. D. Nigam, Supervisor Punjab National Bank Ltd., Kanpur through U P Bank Employees Union.

**Appearances:**

Shri V. N. Sekhri of U.P. Bank Employees Union for the applicant.  
Shri Somesh Chandra, District Manager, for the Bank.

**AWARD****S. D. NIGAM**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The claim was not pressed as evidence from Bank's letter dated 20th July 1951. Shri Somesh Chandra Bank representative also stated, when the case came up for hearing, that the graded increment of the subject has since been sanctioned with effect from 1st January 1951 that is from the due date. The claim accordingly needs no adjudication. The same is filed.

K. S. CAMPELL-FURI, *Chairman.*

Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA;

7th January 1952.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Furi, B.A., LL.B., *Chairman.*

**Section 33-A—Application No. 48**

**PUNJAB NATIONAL BANK, LTD.**

In the matter of an application dated 4th June 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri B. P. Dikshit, Supervisor, Punjab National Bank, Ltd., Meerut Cantt., through U.P. Bank Employees Union.

**Appearances:**

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.  
Shri Somesh Chandra, District Manager, for the Bank.

**AWARD****B. P. DIKSHIT**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd.,

National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This employee was in the service of Bharat Bank but subsequently was taken into the service of Punjab National Bank as evidence from letter dated 20th March 1951 (Ex. A). His services, however, were terminated in June 1951 without having obtained the necessary permission as contemplated under section 33 of the Act. It was contended on behalf of the petitioner that Shri Dikshit was an old employee and he was absorbed in the Punjab National Bank as a confirmed employee and as such it was incumbent upon the Bank to obtain the previous permission of the Tribunal during the pendency of the proceedings of Bank cases under Notification No. LR.2(273), dated 21st February, 1950, which was disposed of with the last award in the case of Uttar Pradesh State in September 1951. On merits it was submitted that the plea advanced by the Bank that Shri Dikshit was found inefficient in his work was not correct because he had been working for the last six years with Bharat Bank and his work was always satisfactory. He was neither charge-sheeted nor given any opportunity to submit his explanation and was thrown out of employment on the supposed plea of inefficiency.

4. Shri Somesh Chandra on behalf of the Bank raised the preliminary objection that the employee was not a 'workman concerned' as contemplated under section 33 of the Act and it was not obligatory upon the Bank to obtain any sanction of the Tribunal in his case. It was further argued that the petitioner was a new hand so far Punjab National Bank was concerned and in the course of his work with this Bank was found inefficient and was discharged from service. It was maintained that in these circumstances it was not necessary for the Bank to call upon him to explain in regard to the unsatisfactory nature of his work, nor it was binding upon the Bank to give him any charge sheet in that respect. Shri Somesh Chandra however in the course of arguments admitted that the petitioner had participated in the strike and the Bank took exception to his action.

5. In regard to the preliminary objection, I have already held in the case of United Commercial Bank (Reference No. 169 of 1950) that in purview of Section 18 of Industrial Disputes Act the connotation of the wording 'workmen concerned' used in section 33 was a wide one and the narrow interpretation put by the Bank side viz., 'that workman concerned was one whose case was directly before the Tribunal at the time of his discharge from service' was not correct. I still adhere to that view and would, therefore, repel the preliminary objection. On merits, the letter of appointment (Ex. A) clinches the issue so far his absorption in the service of Punjab National Bank was concerned. This is a short one and is reproduced below for facility of reference along with the letter sent to Bharat Bank Ltd., incorporated in this very Ex. A. :

Meerut Cantonment Branch,  
Dated the 20th March 1951.

Shri B. P. Dikshit,  
C/o  
Punjab National Bank Ltd.,  
Meerut Cantt.

Dear Sir,

I have the pleasure to inform you that you have been taken as a confirmed employee in the services of the Punjab National Bank Ltd., with effect from 19th March 1951 as per their letter received from the Manager, Punjab National Bank Ltd., Meerut Cantt., which is appended below:

Yours faithfully,  
Sd/ Illegible, Manager.  
Punjab National Bank Ltd.,  
Meerut Cantt.  
Dated the 19th March 1951.

The Manager,  
Bharat Bank Ltd.,  
Meerut Cantt.

Dear Sir,

Reference Staff.

With reference to your letter of the 17th instant we have to inform you that the following members of your staff have been selected by us and they will be treated as confirmed hands in our services with effect from 19th March 1951.

1. Mr. B. P. Dixit as a supervisor.
2. Mr. A. C. Das as a clerk.
3. Mr. C. D. Chandna as a clerk.
4. Mr. Mool Chand Sharma as a Hundi Presenter.

Sd/ Mohan Ball, Manager.

6. Now on the perusal of these two letters it is abundantly clear that Bharat Bank on the cessation of their Banking activities approached Punjab National Bank management to whom they had handed over their assets and liabilities to take some of their employees on their rolls. Four persons were accordingly taken into the service of the Punjab National Bank and Shri Dixit was one of them. It was specifically mentioned in Ex. A that these persons will be treated as confirmed hands with effect from 19th March 1951 which indicates that their previous service was taken into consideration and the petitioner in question was a permanent employee and not a new hand as alleged by the Bank side. In case his work did not find favour with the management it was therefore essential for the Bank to give him charge sheet or atleast an opportunity to explain and to improve his work instead of dispensing with his services straightaway. The method adopted rather betrays that Punjab National Bank was not taking good care to retain the services of old employees of Bharat Bank who have been absorbed by them. At any rate in this case I am not satisfied that the Bank was justified in terminating the services of Shri Dixit within three months of his employment with the Punjab National Bank. The necessary permission was also not obtained and the discharge order suffers from that legal objection as well. In the result this application must succeed and the same is allowed. The Bank is directed to take Shri B. P. Dixit back in service and to pay his back salary and allowances from the date of the termination to the date of reinstatement. This direction will be carried out within one month from the date when the award becomes effective.

K. S. CAMPBELL-PURI, Chairman,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

7th January, 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALUTKUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman

Section 33-A—Application No. 150

PUNJAB NATIONAL BANK, LTD.

In the matter of an application dated 31st July 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Navin Chand Jain, Head Cashier, Punjab National Bank Ltd., Aligarh, through the U.P. Bank Employees Union.

#### Appearances

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.

Shri Somesh Chandra, District Manager, for the Bank.

#### AWARD

NAVIN CHAND JAIN

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was

admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. His case is that he was entitled to 60 days leave according to the rules laid down by their lordships of the All India Industrial Tribunal (Bank Disputes) in their award at page 119 in respect of privilege leave. The Bank, however, allowed him leave only upto 13th June 1951 with full pay and for the remaining period treated him on leave with half pay or without pay. It was argued on his behalf that the withholding of full pay for the whole period of leave amounted to change in the conditions of service under the provisions of section 33. It was further alleged that his C.R. allowance was also stopped when he went on strike.

4. Shri Somesh Chandra on behalf of the Bank besides the legal objection raised in all these applications viz., 'that the petitioner was not a workman concerned' furthermore contended that the matter of leave is governed by the Bank rules and concession of full pay or half pay does not amount to change or alteration in conditions of service. Reliance was placed on the copy of the leave rules (Ex. 1). Regarding C.R. allowance it was submitted that it was a special duty allowance and according to rules when the petitioner was on leave that allowance was not to be paid.

5. Ex. 1 copy of leave rules deals with privilege leave as well as leave without pay in all its details and furnish a complete answer to the claim of the petitioner so far merits of the case go. The matter of leave moreover does not form a part of the basic conditions of service and as such the restricted provisions of section 33 do not apply. The result is that the application fails and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman*,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA:

7th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 142

PUNJAB NATIONAL BANK LTD.

In the matter of an application dated 10th August 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Vishwanath Tripathy, Clerk, Punjab National Bank Ltd., Kanpur, through the U.P. Bank Employees Union.

### Appearances

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.  
Shri Somesh Chandra, District Manager, for the Bank.

### AWARD

V. N. TRIPATHY

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the



Industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The facts of this case are almost identical with the case of Shri B. P. Dikshit. Shri V. N. Tripathy was also an old employee of Bharat Bank and was taken in the service of Punjab National Bank on 7th March 1951. His services were however, terminated on 7th August 1951. It was contended by the Union representative on his behalf that the termination of his services was traceable to his trade union activities and furthermore the provisions of section 33 were violated inasmuch as no permission was obtained from this Tribunal prior to the order of discharge. Shri Sekhri replying to the preliminary objection viz., that the petitioner was not a 'workman concerned' relied on the arguments already made in the case of Shri B. P. Dikshit and furthermore referred to the definition of 'workman' as given in section 2(s) and 'Industrial dispute' section 2(k). It was emphasised that when these two definitions are read with the provisions of section 18(d) whereby the award of the Tribunal is made binding on all workmen and even on those who are subsequently employed, the significance of the word 'workman concerned' becomes very clear. On merits it was submitted that when the petitioner was transferred from Fatehpur to Kanpur he was called upon to give in writing that he would work as a temporary man. He however did not agree and some days after was discharged from service. It was next argued that no reason was assigned in the order of discharge but the Bank stated in paragraph 5 of the written statement that he was found inefficient and his work was found unsatisfactory which appears to be an after-thought. In regard to the alleged temporary nature of service it was contended that Shri Tripathy obtained 7 days leave in the very first month of his service which indicates that his absorption in the Punjab National Bank was in continuation of his previous service. Lastly, it was submitted that he was an office bearer of the Union and the termination of his service was due to his trade union activities and it was wrong to say that he had become surplus to the requirements inasmuch as new hands were employed after his discharge.

4. Shri Somesh Chandra pressed the preliminary objection that the petitioner was not a 'workman concerned' and the provisions of section 33 accordingly did not apply. On merits it was admitted by the Bank representative that the petitioner was in the service of Bharat Bank and was taken in the employment of Punjab National Bank but at the same time contended that he was taken as a new hand as such was a temporary hand. Reference was made to letter dated 7th April 1951 (Ex. 1) and it was contended that it was specifically mentioned in that letter that the petitioner was not taken in any permanent vacancy and he was given a temporary appointment.

5. Shri Sekhri in reply controverted the argument of the Bank representative and maintained that Ex. 1 (an alleged letter of appointment dated 7th April 1951), was issued subsequent to the actual employment which was made in March 1951 and his letter now relied upon by the Bank rather gave rise to the dispute as to whether the employee was to be treated as a temporary hand as suggested in the letter. It was maintained that all the Bharat Bank employees which were absorbed by Punjab National Bank were taken as confirmed employees and were treated as permanent hands.

6. Now the petitioner admittedly joined in March 1951 and the letter Ex. 1 was issued on 7th April 1951. Of course this was mentioned in this letter that at present the management had got no permanent vacancy of a clerk and his case for temporary appointment could be considered if he was prepared to give in writing that he would work as a temporary hand. The Bank representative did not

produce the counterpart of the appointment letter viz. as to whether the petitioner was prepared to work as a temporary hand. This omission lends weight to the contention of the other side that this letter which was issued subsequent to the actual appointment became the subject of dispute. The letter of discharge was also not brought on the record and the contention of the Union side that the services of the petitioner were terminated without assigning any reason prevails. The Bank in their written statement in paragraph 5 has stated that the petitioner was found inefficient and his work was unsatisfactory. This presumably was the reason for the termination of his services and not the one now urged that he was a temporary hand. It is moreover axiomatic that when he was working in Bharat Bank for a pretty long time on the recommendation of Bharat Bank how he had become inefficient soon after. At any rate he was not called upon to explain and it was not disclosed as to how and in what respect he failed in the discharge of his duties. For all these reasons I am satisfied that the management was not justified in terminating the services of Shri V. N. Tripathy on merits. The order of discharge was also bad in law for want of permission as contemplated under Section 33 of the Act. In the result the Bank is directed to take him back in service and to pay him the back salary and allowances for the intervening period. The direction will be carried out within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

7th January 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 145

PUNJAB NATIONAL BANK LTD.

In the matter of an application dated 25th August 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Gurprasad Pandey, Clerk, Punjab National Bank, Kanpur through the U.P. Bank Employees Union.

#### *Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.  
Shri Somesh Chandra, District Manager, for the Bank.

#### AWARD

GUR PRASAD PANDEY

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No.LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The facts of this case are fully set out in the application giving the sequence of events as to how his services were terminated and need not be reiterated. It was argued on his behalf that he first applied for sick leave supported by Medical

Certificate which was returned for countersignature by the Bank's doctor. After some correspondence ultimately the Bank doctor endorsed the certificate with certain remarks. The petitioner applied for 3 days leave once again but that application was not entertained by the Manager and he had to send the application under registered cover dated 26th July 1951. He was however, treated as absent from duty and was discharged. It was contended that the discharge was not warranted by the facts of the case and furthermore prior permission of the Tribunal was also not obtained which was obligatory upon the Bank under the provisions of section 33. It was also submitted that the allegations made in the written statement of the Bank that he was doing private work and was not in bed, was incorrect, inasmuch as the petitioner was convalescing and was advised rest and change of climate. Lastly, it was argued that even if it be assumed for the sake of argument that he absented for a couple of days the penalty exacted was severe.

4. The Bank representative raised two preliminary objections which have already been dealt with in the cases of Shri B. P. Dixit and Shri V. N. Tripathy of this Bank viz. that the petitioner cannot be treated as a 'workman concerned' in the purview of section 33 and that there was no pendency of proceedings and as such the application under section 33-A did not lie. These objections have already been dealt with in the case of United Commercial Bank (Reference No. 169 of 1950)—published in the *Gazette of India*—Part II, Section 3 of 15th September 1951—where it was held that the amplitude of the words "workman concerned" used in section 33 was very wide when read with section 18(4) of the Act and that the 'workman concerned' was not only the man whose case was directly before the Tribunal but all persons affected by the award fell in the category of 'workman concerned' when the case was fought by the Employees Union on their behalf. The legal objections are accordingly repelled.

5. On merits it was admitted that Shri Pandey was an old employee of Bharat Bank and was taken in the service of Punjab National Bank in the year 1951. In the case of this petitioner however his services were not terminated on the plea of inefficiency like Shri B. P. Dikshit and Shri V. N. Tripathy; but the facts stand on different footing. It was alleged that he applied for 3 days leave which was not sanctioned and he was treated absent from duty and was discharged. It was further argued that the petitioner was not ill but was attending to other affairs and in support of this plea reliance was placed on a letter dated 14th December 1951 (Ex. 2) which reveals that Shri Pandey was attending B.A. classes in S.D. College, Kanpur and was admitted in that college on 16th November 1950. This certificate issued by the S.D. College Office Superintendent, however, does not say as to whether he attended the college during the period of leave applied for when he was stated to have been in bed. Shri Sekhri, the Union representative, in this connection averred that a good number of employees have been studying in evening classes which is permissible and in the absence of any cogent proof that Shri Pandey was not ill, this aspect of the question had no bearing on the merits of the case.

6. On the appreciation of all the facts and circumstances what appears to me is that Shri Pandey who was an old employee of Bharat Bank was irregular in his attendance and exhausted all his Casual Leave but it has not been refuted by the Bank side that Shri Pandey was not ill as evidenced from the certificate Annexure I with the claim. This certificate was issued by a Private Medical Practitioner Dr. Mauji Lal, B.Sc., M.B.B.S., wherein he states that Shri Pandey was suffering from Dysentery and the leave applied for was absolutely necessary for the restoration of his health. It is just possible that he was not very ill but this does not mean that his services should have been dispensed with without calling upon him to explain or to ensure about his illness by getting him examined by the Bank Doctor. I am afraid, the case of Shri Pandey, an old employee of Bharat Bank again is found analogous with that of Shri Dixit and Tripathy discharged in similar circumstances. In this case also even if leave was not to be sanctioned the same could have been treated as without pay and the discharge order manifestly betrays the anxiety of getting rid of old employees of Bharat Bank. At any rate in the absence of any cogent and convincing reason as to why the axe fell upon those old employees of Bharat Bank who were absorbed in the Punjab National Bank on the recommendation of Bharat Bank, I have no alternative but to allow the petition. The Bank is, therefore, directed to take him back in service within one month when the award becomes operative. He will also get his back salary and allowances for the intervening period.

K. S. CAMPBELL-PURI, Chairman,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
7th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 153

PUNJAB NATIONAL BANK LTD.

In the matter of an application dated 30th August 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Kider Nath Misra, Cashier, Punjab National Bank Ltd., Kanpur, through U.P. Bank Employees Union.

*Appearances:*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri Somesh Chandra, District Manager, for the Bank.

## AWARD

## KIDER NATH MISRA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No.LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner's case is that he was an old employee and had been working since 1929. It so happened that he went on Medical Leave in January 1951 which was extended upto 21st January 1951 and on the expiry of the leave he applied for extension which was refused and he was informed by letter dated 8th August 1951 that he had become over-age and that his case of retirement was referred to head office. It was urged that in the circumstance he was forced to retire and as such his case amounted to lockout. Reliance was placed on a letter dated 7th March 1951 (Ex. A) and another letter sent by the petitioner to the Bank (Ex. B) and other correspondence regarding his leave (Ex C—pages 1 to 9). Finally, it was submitted that if he had to retire his case for gratuity and salary for the leave period and notice period should have been considered.

4. Shri Somesh Chandra in reply raised the preliminary objection that the petitioner was not 'workman concerned' as contemplated under section 33 of the Act. On this point he relied upon the same argument already made in other cases. Secondly, it was stated that his case does not fall within the scope of Industrial Disputes Act inasmuch as he had attained the age of superannuation and his case for retirement is before the Board. It was admitted at the same time that he was not allowed to attend office because his case is being considered by the Board and the decision has been delayed owing to dispute on the question of age. Thirdly, that retirement by itself is not a change in the conditions of service and section 33 does not apply. Reliance was placed on the Bank's rules on the question of retirement (Exs. 1 and 2).

5. On merits it was submitted that he applied for one month's leave on 27th January 1951; but the leave was not sanctioned. He then applied for sick leave supported with Medical Certificate which was returned and he was called upon to get himself examined by the Bank doctor. He, however, failed to comply with

that. In regard to the relief viz. salary for leave period, it was argued that on retirement under rules, earned leave lapses and accordingly he is not entitled to any such payment.

6. On the examination of facts and the evidence, it appears that when the petitioner applied for leave more than once, the management thought of retiring him as he had attained the age of superannuation. Regarding the leave applied for, however, as disclosed by the correspondence Ex. C. [comprising over 9 letters (Ex. C/1 to C/9) brought on the record] it is abundantly clear that the leave was not refused on the plea that no privilege leave was due under rules but the reason assigned for refusing leave as evidenced from Ex. C/1 dated 30th May 1951 was that the petitioner was found inefficient and incapable of performing the Bank duties and hence no leave could be granted to him. Shri Kider Nath Misra, the petitioner, in reply to this letter dated 30th May 1951 wrote to the Manager, Punjab National Bank, Nayaganj, Kanpur on 4th June 1951 (Ex. C/3) and made it clear that he was lying ill and wanted an extension of leave for one month from 1st June 1951 to 30th June 1951 on the basis of Medical Certificate enclosed. The petitioner furthermore asked the management that in case they were doubtful about his illness he would request them to kindly get him examined by Bank's doctor at Bank's cost. He also made a demand for the payment of salary from 1st February 1951 to 31st May 1951 as he was in need of money for his treatment. The Manager, Nayaganj, Kanpur, in his letter dated 9th July 1951 (Ex. C/5) again wrote to the contractor cashier Shri P. N. Mehrotra on the subject of leave informing him that the petitioner was absenting himself from duty since 29th January 1951 without getting his leave sanctioned by the Bank at his own risk and responsibility. A copy of this letter dated 7th March 1951 (Ex. A) was also forwarded to the petitioner which elicited a reply from the side of the petitioner under registered cover (Ex. C/6). This may be reproduced for the appreciation of the question involved on the subject of leave:

Ex. C/6:

"The Manager,  
The Punjab National Bank Ltd.  
Naya Ganj, Kanpur.

Registered

Dear Sir,

With reference to your letter dated 9th July 1951 addressed to the Contractor Cashier, with a copy to me and note that my leave application along with the medical certificate has been forwarded to the Contractor Cashier for his remarks.

It is really strange that you are advising the Contractor Cashier that I am absenting myself from duty from 29th January 1951 which is quite wrong as I am ill and sending regular leave applications duly supported by the medical certificates. I have repeatedly requested to your goodself to get myself examined by the Bank's doctor or any other doctor at Bank's cost in case you have any doubt about my illness and I will again request your honour to please send the Bank's doctor to examine me.

As regards the question of age raised in your memo dated 6th June 1951 I most respectfully beg to state that the age submitted by a registered medical practitioner of good standing is correct. Moreover this question of age is not at all concerned with leave applications and is quite irrelevant at this stage.

I will, therefore, request you to please pay my salary from 1st February, 1951 immediately as I need money very badly.

Yours faithfully,

Sd. Kedar Nath Misra.

The Manager, however, in his letter dated 26th July 1951 (Ex. C/7) again informed the petitioner that as he has become over age and it was not possible for the management to sanction any leave and that his case for retirement from Bank's service was being referred to head office for their instruction. It appears that the petitioner sent another letter in reply to Ex. C/7 dated 26th July 1951 because he was once again informed by the Manager in his letter dated 8th August 1951 (Ex. C/8) that he had become over age and was unfit to perform Bank duties and hence he could not be allowed to work in the Bank and that his case for retirement from service had already been referred to the head office as advised in Bank's letter dated 26th July 1951.

7. Now the position taken up by the Bank's side as borne out from the correspondence is that his leave application was not considered as he had attained the

age of superannuation. Shri Somesh in support to this argued that under rules earned leave lapses on retirement but no copy of rules was brought on the record in support of the contention. The argument rather shows that some earned leave was at the credit of the petitioner but the management was not prepared to grant him leave despite the production of Medical Certificate, the recommendation of the contractor cashier as well as the request made by the petitioner that if the Bank was doubtful about his illness they could get him examined by the Bank's doctor. Shri Somesh Chandra in his arguments insisted upon the stand taken up by the Bank that the petitioner was more than once informed that he was absenting himself at his own risk and that his case was referred to the head office for retirement but the same was not yet decided on account of dispute over the question of age. It was also stated that the petitioner was not allowed to resume his duty because leave was not granted to him and he was treated to have absented himself from duty. This argument when considered in the light of all facts and circumstances appears to me wholly fallacious inasmuch as either final orders should have been communicated to him that he had retired from service or his earned leave to which he was entitled under the rules should have been granted to him on full, half or even without pay. But, to say that the question of leave could not be considered as he had reached the age of superannuation and at the same time admitting that the decision could not be arrived at owing to dispute over the question of age, leads to the only conclusion that the Bank wanted to withhold the payment of the salary for the leave period which presumably was due to the petitioner. In these circumstances I have not been able to persuade myself to fall in line with the position taken up by the Bank and I am of the opinion that the petitioner was entitled to the payment of salary for the period of earned leave which according to the calculation falls to his credit. In the absence of any material on the record it is not possible to grant the relief actually asked for viz., payment of salary for the specified period commencing from 29th January 1951 to 8th August 1951, and the Bank is directed to pay him the salary for the period of earned leave which according to calculation from his personal file falls due to him within one month from the date of the publication of the award.

8. There is yet another question upon which the parties joined issue viz. whether the petitioner was locked out from service. As explained above, the Bank's position was that he was not allowed to work as he had attained the age of superannuation and reference was made to circulars relating to retirement of employees. Under these rules, employees, who attain the age of 55 years retire on due date unless they apply for and are sanctioned "extension". In the first place, the case of retirement is not before me and the Board has not yet decided it; secondly the petitioner according to his own admission has attained 55 years of age by this time. The question of lock out therefore does not arise and this relief is accordingly negatived. In regard to the contemplated retirement, the petitioner is left to seek his remedy about gratuity etc., according to law when final decision is made by the Board. Awarded accordingly.

CALCUTTA;  
7th January 1952.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUBADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 25

UNITED COMMERCIAL BANK LTD

In the matter of an application dated 31st May 1951 under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Lakshmi Sankar Se Chief Cashier, United Commercial Bank Ltd., Kanpur Branch through U Bank Employees Union.

#### Appearances:

Shri B. K. Porwal of U.P. Bank Employees Union, for the applicant.

Shri R. V. Gobindan, Law Officer, for the Bank.

#### AWARD

LAKSHMI SHANKAR SETH

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application

was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The complaint of the petitioner is that he joined the Bank's service in the year 1944 and was an old employee; his services, however, were terminated during the pendency of the Tribunal's proceedings in the year 1950 without assigning any reason. It was alleged *inter alia* that necessary permission under section 33 was not obtained and the order of discharge was also bad in law for want of permission. The application was opposed by the Bank mainly on the ground that the petitioner joined the Bank's service on the basis of an agreement (Ex.2) and according to the terms of the agreement, his services were terminable on either side on six calendar month's notice to that effect. It was maintained that he was paid six months salary in lieu of notice and could have no cause of any grievance. The Bank representative also raised more than one preliminary objections:

- (1) That the petitioner was an officer and does not satisfy the definition of workman being the head cashier;
- (2) That the provisions of section 33 do not apply in his case inasmuch as he was not a 'workman concerned' and moreover his services were based on the terms of his specific agreement.

In support of the preliminary objection reliance was placed on the decision in the case of Lever Brothers Ltd., Bombay, and their workmen (published in Labour Law Journal-May, 1950 page 469).

4. On the other hand, Shri Porwal, the Union representative, arguing on behalf of the petitioner, in reply to the preliminary objection relied upon the finding given in the Delhi State Bank Disputes award of this Tribunal wherein it was held that Head Cashiers in these Banks are not officers because they work under the Manager.

5. Both these preliminary objections have already been dealt with more than once in the awards of this Tribunal and I do not think any further elaboration in each case is necessary. In regard to the first objection admittedly the Head Cashier was working under the guidance of the Manager and had no controlling power excepting that he was in charge of the Cash Department. This one responsibility gives him only the status of supervising his staff, but he had no power to dismiss or employ any one or any other managerial power. The authority cited viz. the case of Lever Brothers, Bombay and their workmen is not exactly in point and moreover in the light of the finding given by this Tribunal in the Delhi State Bank Disputes award, the case of Chief Cashier cannot be bracketed with Junior Managerial staff or technical supervisory staff which was considered in that Bombay case. The objection is accordingly repealed. The other objection also is devoid of any force as discussed in other applications. The controversy between the parties mainly hinges upon the agreement (Ex.2). The Union representative argued that with the enforcement of U.P. Shops and Establishment Act in Uttar Pradesh in the year 1947 all previous contracts were superseded under the provisions of section 5. Reference was made to the Supreme Court decision in the case of Bharat Bank (published in Labour Law Journal—September 1950—p. 948). In this decision of the Supreme Court, authoritative as it is, it was observed at page 948 that the Tribunal has not merely to interpret or give effect to the contractual rights and obligations of the parties and it can create new rights and obligations between them which it considers essential for keeping industrial peace. It was further observed that an industrial dispute as has been

said on many occasions is nothing but a trial of strength between the employers on the one hand and the workmen's organization on the other and the industrial tribunal has got to arrive at some equitable arrangement for averting strikes and lock-outs which impede production of goods and the industrial development of the country. The observation concludes that the Tribunal is not bound by the rigid rules of law. The process it employs is rather an extended form of the process of collective bargaining and is more akin to administrative than to judicial function. The observations weighty as they are, expound the true position of the Tribunal's work but I have not been able to understand as to how in an individual application of section 33-A effecting the services of one employee, who joined the Bank's service on the basis of an agreement these observations can be availed of by the Union side to infer that all contracts and agreements stand superseded and that the Tribunal has not to look into the contractual basis of the service in question. Under the U.P. Shop and Establishment Act also it is nowhere laid down that all previous contracts have been superseded and the service conditions between the employees and the employer shall not be considered in the terms of the agreement duly entered between the parties. It was next urged by the Union that the termination of the services of Shri L. S. Seth was traceable to his trade union activities. In this connection reliance was placed on a letter dated 24th April 1951 sent by the Manager, Kanpur Branch, to the applicant (Ex.A) and other letters (Exs. A-1 to A-4) to the effect that Cash Department staff was on strike and that he was responsible for the running of the Cash Department. Ex.A—a letter addressed to Shri L. S. Seth Chief Cashier by the Manager bespeaks that the Manager called upon the Chief Cashier that in terms of his agreement he was responsible for the running of the Cash Department and to meet the emergency on that day the management had supplied him by one Cashier from Lucknow office to cope with the work. It was enquired from him as to whether his Cashiers would attend in future so that the work may go on uninterruptedly. From this Shri Porwal stressed that the petitioner was victimized on account of the trade union activities of those working under him. The inference is far fetched and cannot be accepted. Coming to the agreement itself his conditions are very much explicit as laid down in clauses 1, 15, 17 and 18 which deal with the termination of his services on payment of all his dues and on discharge of all his liabilities to the Bank. These conditions and terms of the agreement have in no way been violated and the case of the petitioner is covered within the four corners of the terms of the agreement. The pleas raised on his behalf are beside the real issue and are without substance. In the result the claim fails and the same is dismissed.

CALCUTTA;  
8th January, 1952.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Govt. Industrial Tribunal, Calcutta.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 100

HABIB BANK LTD.

In the matter of an application dated 7th July 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri B. K. Tandon of Habib Bank Ltd., Kanpur Branch, through the U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union, for the applicant.

Shri S. E. H. Rizvi, Agent, Calcutta Office, for the Bank.

AWARD

B. K. TANDON

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.



2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This is a case of retrenchment as the services of the petitioner were terminated on the closure of Kanpur Branch of Habib Bank Ltd. The petitioner's case is that he was an old employee having joined the Bank's service in the year 1947 and his services were terminated on 9th November 1950 on the closure of the branch without applying the principle of 'last come first go' and that he could have been easily absorbed in other branches of the Bank. It was also argued that permission under section 33 was not obtained and the provisions of that section have been violated. Reliance was placed on the Uttar Pradesh State Bank disputes award of this Tribunal in the case of the closure of Muzaffarnagar Branch (published in the *Gazette of India*, dated 15th September 1951), as well as Bombay State Bank disputes award (published in the *Gazette of India*, dated 24th March 1951) in the case of closure of Bhiwani branch.

4. The Bank representative, in reply, submitted that the Bank was running at a loss and the management in order to rehabilitate their position as a measure of economy had to close several branches. It was maintained that the closure of Kanpur Branch was in pursuance of that policy and as the services of all employees were terminated the principle of 'last come first go' was of no avail. It was further argued that under the directions given in para. 322 of the All India Industrial Tribunal (Bank Disputes) award five months notice was given to each employee and the closure of the branch was not made abruptly. The Bank representative while explaining the financial position stated that the deposits in the Kanpur Branch in the year 1949 came down to Rs. 23,79,000 as compared with Rs. 1,33,16,000 in 1947. A copy of the resolution (Ex.A) was also produced in evidence which purports to have been signed by the Directors. It has been stated in this resolution that some of the branches have become unremunerative and it is considered necessary to close such branches. Replying to the legal objection that permission under section 33 was not obtained the Bank representative argued that the same was not necessary inasmuch as there was no dispute pending before the Tribunal so far this Bank was concerned. In regard to the legal objection the record reveals that the cases of Shri R. P. Tandon and Mustaq Ali, Driver were pending before this Tribunal and the stand taken up by the Bank is not tenable. On merits however I am satisfied that the Bank had acted in good faith in the matter of closure of branches and in the circumstances I do not think that it is a fit case for reinstatement. The petitioner was no doubt given due notice extending over five months as stated by the Bank representative yet he was entitled to some retrenchment relief on the termination of his services for the Bank's own reasons and to no fault of his. In the matter of retrenchment relief I have generally allowed half month's salary plus allowances admissible for each completed year of service and the same principle will be applied in this case as well. The result is that the Bank is directed to pay the applicant half month's salary plus allowances for each completed year of service at the rate he was drawing at the time of discharge. This direction shall be carried out within one month from the date when the award becomes effective.

K. S. CAMPBELL-PURI, Chairman,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA:

8th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUBADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 102

HABIB BANK LTD.

In the matter of an application dated 7th July 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Islam Ahmad of Habib Bank Ltd., Kanpur Branch, through U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union, for the applicant.

Shri S. E. H. Rizvi, Agent, Calcutta Office, for the Bank.

## AWARD

## ISLAM AHMAD

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No.LR.2(273), dated 21st February 1950 and as such it was taken seizin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This employee joined the Bank's service on 1st October 1946. He was discharged on 8th November 1950 on the closure of Kanpur Branch. The representative of the Union as well as the Bank advanced the same arguments made in the case of Shri B. K. Tandon of this Bank (Application No.100). The complaint of the petitioner put briefly is that on the closure of the Branch he should have been absorbed somewhere else; and the stand taken up by the Bank was that the closure of Kanpur branch was made as a measure of economy in all good faith and due notice extending over five months was given to each employee and the services of all employees without any discrimination were terminated. In the circumstances it was maintained that the principle of 'last come first go' has no applicability. In regard to the legal objection as to why permission under section 33 was not obtained it was urged on behalf of the Bank that the same was not necessary because no case was pending before the Tribunal. As remarked in the case of Shri B. K. Tandon, Habib Bank was before the Tribunal in the case of R. P. Tandon, Sub Accountant and Mastaq Ali, Driver and as such it was not correct to say that the Bank was not before the Tribunal at the time of the closure of the branch. Or merits, however, as found in the case of B. K. Tandon, I am satisfied that the Kanpur Branch was running at a loss and was closed in good faith and in view of the fact more than one branches had been closed it was difficult for the Bank to absorb the discharged employees. I am therefore of the opinion that it is not a fit case for allowing reinstatement and retrenchment relief would meet the ends of justice. In the result the Bank is directed to pay half month's salary plus allowances for each completed year of service to the petitioner at the rate that he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,

Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA;

8th January, 1952.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

*Section 33-A—Application No. 103*

HABIB BANK LTD.

In the matter of an application dated 7th July 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri N. C. Sharma of Habib Bank Ltd., Kanpur Branch, through U.P. Bank Employees Union.

*Appearances:*

Shri B. K. Porwal of U.P. Bank Employees Union, for the applicant.

Shri S. E. H. Rizvi, Agent, Calcutta Office, for the Bank.

AWARD

N. C. SHARMA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No.LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This employee joined the Bank's service in October 1946 as a clerk. He was discharged on 9th November 1950 on the closure of Kanpur Branch. The representative of the Union as well as the Bank advanced the same arguments made in the case of Shri B. K. Tandon of the Bank (Application No.100). The complaint of the petitioner put briefly is that on the closure of the Branch he should have been absorbed somewhere else; and the stand taken up by the Bank was that the closure of Kanpur branch was made as a measure of economy in all good faith and due notice extending over five months was given to each employee and the services of all employees without any discrimination were terminated. In the circumstances it was maintained that the principle of 'last come first go' has no applicability. In regard to the legal objection as to why permission under section 33 was not obtained it was urged on behalf of the Bank that the same was not necessary because no case was pending before the Tribunal. As remarked in the case of Shri B. K. Tandon, Habib Bank was before the Tribunal in the case of R. P. Tandon, Sub Accountant and Mastaq Ail, Driver, and as such it was not correct to say that the Bank was not before the Tribunal at the time of the closure of the Branch. On merits, however, as found in the case of B. K. Tandon, I am satisfied that the Kanpur Branch was running at a loss and was closed in good faith and in view of the fact that more than one branches had been closed, it was difficult for the Bank to absorb the discharged employees. I am, therefore, of the opinion that it is not a fit case for allowing reinstatement and retrenchment relief would meet the ends of justice. In the result the Bank is directed to pay half month's salary plus allowances for each completed year of service to Shri N. C. Sharma, petitioner, at the rate that he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA;

8th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.*Section 33-A—Application No. 105*

HABIB BANK LTD.

In the matter of an application dated 16th July 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri D. P. Shukla, of Habib Bank Ltd., Kanpur Branch, through U.P. Bank Employees Union.

*Appearances*

Shri B. K. Porwai of U.P. Bank Employees Union, for the applicant.

Shri S. E. H. Rizvi, Agent, Calcutta Office, for the Bank.

## AWARD

D. P. SHUKLA:

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This employee joined the Bank's service in October 1948. He was discharged on 9th November 1950, on the closure of Kanpur Branch. The representative of the Union as well as the Bank advanced the same arguments made in the case of Shri B. K. Tandon of this Bank (Application No. 100). The complaint of the petitioner put briefly is that on the closure of the Branch he should have been absorbed somewhere else; and the stand taken up by the Bank was that the closure of Kanpur branch was made as a measure of economy in all good faith and due notice extending over five months was given to each employee and the services of all employees without any discrimination were terminated. In the circumstances, it was maintained that the principle of 'last come first go' has no applicability. In regard to the legal objection as to why permission under section 33 was not obtained it was urged on behalf of the Bank that the same was not necessary because no case was pending before the Tribunal. As remarked in the case of Shri B. K. Tandon, Habib Bank was before the Tribunal in the case of R. P. Tandon, Sub Accountant and Mastaq Ali, Driver and as such it was not correct to say that the Bank was not before the Tribunal at the time of the closure of the branch. On merits, however, as found in the case of B. K. Tandon, I am satisfied that the Kanpur Branch was running at a loss and was closed in good faith and in view of the fact that more than one branches had been closed it was difficult for the Bank to absorb the discharged employees. I am therefore of the opinion that it is not a fit case for allowing reinstatement and retrenchment relief would meet the ends of justice. In the result the Bank is directed to pay half month's salary plus allowances for each completed year of service to the petitioner, Shri D. P. Shukla, at the rate that he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL PURI, *Chairman*.

Central Government Industrial, Tribunal, Calcutta.

CALCUTTA:

8th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 101

HABIB BANK LTD.

In the matter of an application dated 16th July 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Syed Anis Ahmad of Habib Bank Ltd., Kanpur Branch, through U.P. Bank Employees Union.

*Appearances*

Shri B. K. Perwal of U.P. Bank Employees Union, for the applicant.

Shri S. E. H. Rizvi, Agent, Calcutta office, for the Bank.

## AWARD

SYED ANIS AHMAD

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindustan Commercial Bank Ltd., Hindustan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This employee joined the Bank's service on 1st October 1946. He was discharged on 8th November, 1950, on the closure of Kanpur Branch. The representative of the Union as well as the Bank advanced the same arguments made in the case of Shri B. K. Tandon, of this Bank (Application No. 100). The complaint of the petitioner put briefly is that on the closure of the Branch he should have been absorbed somewhere else; and the stand taken up by the Bank was that the closure of Kanpur Branch was made as a measure of economy in all good faith and due notice extending over five months was given to each employee and the services of all employees without any discrimination were terminated. In the circumstances it was maintained that the principles of 'last come first go' has no applicability. In regard to the legal objection as to why permission under section 33 was not obtained. It was urged on behalf of the Bank that the same was not necessary because no case was pending before the Tribunal. As remarked in the case of Shri B. K. Tandon, Habib Bank was before the Tribunal in the case of R. P. Tandon, Sub Accountant and Mastaq Ali, Driver, and as such it was not correct to say that the Bank was not before the Tribunal at the time of the closure of the branch. On merits however as found in the case of B. K. Tandon, I am satisfied that the Kanpur Branch was running at a loss and was closed in good faith and in view of the fact that more than one branches had been closed it was difficult for the Bank to absorb the discharged employees. I am, therefore, of the opinion that it is not a fit case for allowing reinstatement and retrenchment relief would meet the ends of justice. In the result the Bank is directed to pay half month's salary plus allowances for each completed year of service to the petitioner Syed Anis Ahmad, at the rate that he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*.

Central Government Industrial Tribunal, Calcutta.

CALCUTTA:

8th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A—Application No. 49

BANK OF JAIPUR LTD

In the matter of an application dated 11th June 1951, under Section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Jai Shankar Tripathi of Bank of Jaipur Ltd., Kanpur Branch through U.P. Employees Union.

## Appearances

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri Raj Kishore Jwala, Agent, Bareilly Branch for the Bank.

## AWARD

## JAI SHANKAR TRIPATHI

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindustan Commercial Bank Ltd., Hindustan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner joined the Bank's service on 1st May 1949. His services were terminated on account of the closure of Kanpur Branch on 25th January 1951. Two months notice was served earlier on 16th November 1950. It was contended on his behalf by Shri Sekhri that the permission under Section 33 were not obtained and as such the discharge of the employee along with others was bad in law. The Union representative replying to the plea raised by the Bank that the branch was uneconomic, further explained the history of the branch from the time of the start upto the time of the closure and submitted that it was running profitably but it so happened that on account of certain fraud the Bank management showed a loss of 12 lacs. In point of fact there was no loss because the amount which was advanced to one of the parties and which was alleged to have defrauded the Bank subsequently was realized and the branch could function properly if so desired. But some extraneous circumstances intervened and the Bank authorities closed the branch with the result that the future of so many employees has been ruined and they are out of employment. It was emphasised that whatever may be the cause it affected the employees. Shri Sekhri however frankly admitted there was no bad motive or unfair labour practice behind the closure. It was next urged that the principle of 'last come first go' was not applied and some of the senior members of the staff have been thrown out of employment and they can be easily absorbed in other branches if the Bank cares to absorb them. Finally, it was submitted that the services of the employees were terminated without giving them any gratuity or compensation although they were permanent employees and had put in certain length of service. Lastly, it was urged that at least this was a fit case for retrenchment relief but the same should not be considered on the footing of Bharat Bank retrenchment cases as the facts and circumstances differ.

4. Shri R. K. Jwala, Bank representative, in reply submitted that as stated in the written statement the Kanpur Branch was running at a loss and it became

an uneconomic unit and head office could not possibly afford to run uneconomic units indefinitely. He, however, repudiated the allegations of the other side that certain case of fraud brought down the closure and maintained that this branch was running at a loss and intimation had already been received from the head office to develop business. Meanwhile, the aforesaid incident took place and a loss of a big amount occasioned and the branch was closed. There was no prospect of running this branch on profits and consequently it was to be closed. He concluded that the aforesaid cause was not the only one reason but other factors also contributed to the closure of this Branch. Replying to the contention that permission was not obtained under section 33, it was argued that no particular case was pending with the Tribunal on the date when the branch was closed and as such it was not obligatory upon the Bank to obtain the permission under section 33. Secondly, the Bank was not aware of the pendency of the proceedings in general against the Bank of Jaipur. It was further stressed that the Union has not referred to any dispute pertaining to this Bank which formed the subject of general dispute for the purpose of pendency of proceedings. Lastly, it was submitted that so far the closure of branch was concerned the final authority in that respect are the Board of Directors to decide whether to continue any business or to close any branch as long as there was no malice towards the employees and the closure was not made in order to injure the employees.

5. Now on the analysis made above, it is clear that this is a case of retrenchment and there was no bad motive or unfair labour practice on the part of the employer in terminating the services of the petitioner. The main contention advanced by the Union side was that some of the senior members of the staff had been thrown out of employment and they could be easily absorbed in other branches if the principle of 'last come first go' had been applied with some care. Reference was made to Delhi Bank Disputes award of this Tribunal and also Punjab State Bank Disputes award, wherein this principle has been discussed in the case of R. L. Sally of Bharat Bank and S. H. Nanda of Hindusthan Commercial Bank as well as U.P. State award (published in the *Gazette of India* dated 15th September 1951) of this Tribunal regarding the closure of Muzaffarnagar branch. Besides the above reference reliance was placed on Labour Appellate Tribunal decisions in the case of Cooper Allen & Co. Ltd. Vs. Their workmen (published in Labour Law Journal—October 1951—page 476), National Textile Workers Union Vs. Meenakshi Mills Ltd., (published in Labour Law Journal—October 1951—page 516), Fertilizer and Chemicals Travancore Ltd. Vs. Their workmen (published in Labour Law Journal—August 1951—page 211). These observations made in the awards of this Tribunal referred to above were of general nature and need not detain me. The decisions of the Labour Appellate Tribunal cited above, of course, warrant great respect at the hands of this Tribunal and may well be considered if any dictum laid down therein is applicable in this case. In the first case viz. Cooper Allen & Co. Ltd., the learned Tribunal only observed that it would be wrong to discharge a temporary workman retaining the services of one junior to him. This observation obviously has no bearing on the particular facts of this case and it appears that reference was made to this in general without making out that any temporary workman has been discharged and the services of junior men have been retained. The authority manifestly is of no avail to the Union side. Similarly in the case of National Textile Workers Union case, the question posed before the Labour Appellate Tribunal was as to whether change of work load amounted to change in the conditions of service. The Tribunal held that the workers were justified in refusing to work in the new work loads and that the lock out thereon was illegal. This finding also has no bearing on the facts of this case. In the third case viz. Fertilizers and Chemicals Travancore Ltd. while dealing with the question of retrenchment the learned Tribunal of course held that the rules as usual should apply in the particular case also viz. the principle of 'last come first go' and that retrenched personnel should be absorbed where possible. The proviso at the end is significant and in the absence of any evidence as to whether it was possible for the employer to absorb the discharged employees on the closure of their branches it is difficult to hold that the Bank be called upon to absorb Shri J. S. Tripathi in one of the branches or in other words to order reinstatement of the employee. I am therefore, left to the only other relief viz. one of retrenchment relief and in this I agree with the Union representative that in the matter of retrenchment relief Jaipur Bank has no analogy with the Bharat Bank retrenchment cases. In the cases of Bharat Bank there has been more or less a crash and all branches ceased operating Banking business and in these special circumstances I allowed the relief at the rate of half month's salary for each completed year of service. But in the case of Bank of

Jaipur so far the closure was concerned, the management is contemplating as admitted by the Bank representative to take over the assets and liabilities of Calcutta National Bank, I think the standard of relief must be on the basis of substantial compensation. In regard to the quantum of compensation or retrenchment relief I accordingly assess two months' salary plus allowances in the case of Shri Jai Shankar Tripathi as retrenchment relief. The Bank is directed to pay him the above amount at the rate that he was drawing at the time of his discharge within one month from the date when the award becomes effective.

CALCUTTA;  
8th January, 1952

K. S. CAMPBELL-PURI, *Chairman*,  
Central Govt. Industrial Tribunal, Calcutta.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

#### Section 33-A—Application No. 50

BANK OF JAIPUR LTD.

In the matter of an application dated 11th June 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Ram Chandre Shukla of Bank of Jaipur Ltd., Kanpur Branch, through the U.P. Bank Employees Union.

#### Appearances:

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri Raj Kishore Jwala, Agent, Bareilly Branch, for the Bank.

#### AWARD

##### RAM CHANDRA SHUKLA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. His services were terminated on the closure of Kanpur Branch and arguments advanced in the case of Shri Jai Shankar Tripathi were repeated by both sides. Shri Sekhri on behalf of the applicant furthermore filed an affidavit of Shri Shukla (Ex. A) wherein in paragraph 3 it was averred that the authorities of the Bank of Jaipur are going to re-open their branch at Kanpur shortly. It was argued that in case this branch is re-started Shri Shukla be reinstated in the revived branch.

4. Shri R. K. Jwala, Bank representative, replying to the averments made in the affidavit submitted that so far he was aware there was no such move to re-start the branch as alleged in the affidavit. In the circumstances the case of Shri Shukla also stands on the same footing with that of Shri Jai Shankar Tripathi and I have no mind to direct his reinstatement. His application does not disclose as to when he joined the Bank's service. I, however assess the retrenchment relief as compensation at the rate of one month's salary for each completed year of service



with allowances and direct the Bank to pay him the amount of compensation at the rate of salary that he was drawing at the time of discharge within one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial, Tribunal, Calcutta.

CALCUTTA;

6th January, 1952.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A—Application No. 51

BANK OF JAIPUR LTD.

In the matter of an application, dated 11th June 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Girija Shankar Bajpai, Ex-clerk of Bank of Jaipur, Kanpur Branch, through U.P. Bank Employees Union.

## Appearances:

Shri V. N. Sekhri of U. P. Bank Employees, for the applicant.

Shri Raj Kishore Jwala, Agent, Bareilly Branch, for the Bank.

## AWARD

GIRIJA SHANKAR BAJPAI

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. He joined the Bank's service on 13th September 1946 and his services were terminated on 16th January 1951 on the closure of Kanpur Branch. His case was that he was a permanent man and an old employee and that the management could easily absorb him in some other branch. It was further argued that the Bank is contemplating to take over the management of Calcutta National Bank and could give priority to the discharged employees, particularly the applicant who has suffered lot.

4. The Bank representative in reply to this new fact submitted that the scheme for merger of Calcutta National Bank was no doubt being considered but the whole thing rests, on the decision of the Calcutta High Court where the Calcutta National Bank's case is pending. The Bank representative however added that he was not in a position to say as to when such scheme materializes but even if it fructifies the question of absorption of the staff of Calcutta National Bank will also be there and as such the absorption of this employee or other retrenched employees of Kanpur branch is problematic. In view of the fluid position in regard to absorption I would prefer to allow retrenchment relief as held

in the case of Shri Ram Chandra Shukla at the rate of one month's salary for each completed year of service plus allowances and the Bank is directed to pay the amount at the rate he was drawing at the time of his discharge within one month from the date when the award becomes effective.

K. S. CAMPBELL-PURI, *Chairman.*  
Central Govt. Industrial Tribunal, Calcutta.

CALCUTTA;  
8th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

*Section 33-A—Application No. 69*

**BANK OF JAIPUR LTD.**

In the matter of an application, dated 11th June 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri S. N. Mukherjee, Bank of Jaipur Ltd., Kanpur Branch through the U.P. Bank Employees Union.

### *Appearances*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.  
Shri R. K. Jwala, Agent, Bareilly Branch, for the Bank.

### AWARD

S. N. MUKHERJEE

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950, and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This case is also one of retrenchment because his services were terminated on 15th January 1951, along with others on the closure of Kanpur Branch. The Union representative arguing on his behalf submitted that the arguments advanced in the cases of Shri Jai Shankar Tripathi and Girija Shankar Bajpai be also considered in his case as the petitioner's case stands on the same footing. The Bank representative also stated likewise and consequently I am left to appreciate the view points of both sides on the line of retrenchment relief only because in the case of J. S. Tripathi and Girija Shankar Bajpai I have already observed that the question of absorption of the retrenched employees of Kanpur branch of this Bank is in an uncertain condition and it would not be safe to leave the parties in an indefinite position when it is left to the discretion of the employer to reinstate, where possible as observed by their lordships of the Labour Appellate Tribunal in the case of Fertilizer and Chemicals, Travancore, Ltd., (published in Labour Law Journal August 1951). Coming to the assessment of retrenchment relief I would

allow in this case also one month's salary plus allowances for each completed year of service. The Bank is accordingly directed to pay the amount at the rate of salary that the petitioner was drawing at the time of his discharge within one month from the date of the publication of the award.

K. S. CAMPBELL PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
8th January, 1952.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A—Application No. 70

**BANK OF JAIPUR LTD.**

In the matter of an application, dated 11th June 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri K. N. Shome of Bank of Jaipur Ltd., Kanpur Branch through the U.P. Bank Employees Union.

*Appearances*

Shri V. N. Sekhri, of U.P. Bank Employees Union, for the applicant.

Shri R. K. Jwala, Agent, Bareilly Branch, for the Bank.

**AWARD**

**K. N. SHOME**

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950, and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The case of Shri Shome is also one of retrenchment because his services were terminated on 15th January 1951, along with others on the closure of Kanpur Branch. The Union representative arguing on his behalf submitted that the arguments advanced in the cases of Shri Jai Shankar Tripathi and Girija Shankar Bajpal be also considered in his case as the petitioner's case stands on the same footing. The Bank representative also stated likewise and consequently I am left to appreciate the view points of both sides on the line of retrenchment relief only because in the case of J. S. Tripathi and Girija Shankar Bajpal I have already observed that the question of absorption of the retrenched employees of Kanpur branch of this Bank is uncertain and it would not be safe to leave the parties in an indefinite position. Coming to the assessment of retrenchment relief I would allow in this case also one month's salary plus allowances for each completed year of service. The Bank is accordingly directed to pay the amount at the rate of salary that the petitioner was drawing at the time of his discharge within one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;  
8th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 95

BANK OF JAIPUR LTD.

In the matter of an application dated 11th June 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri H. C. Chharia of Bank of Jaipur Ltd., Kanpur Branch through the U.P. Bank Employees Union.

*Appearances*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri R. K. Jwala, Agent, Bareilly Branch, for the Bank.

## AWARD

H. C. CHHARIA.

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950, and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner's services were terminated on 15th January 1951, along with others on the closure of Kanpur Branch. The Union representative arguing on his behalf submitted that the arguments advanced in the cases of Shri Jai Shankar Tripathi and Girija Shankar Bajpai be also considered in his case as the petitioner's case stands on the same footing. The Bank representative also stated likewise and consequently I am left to appreciate the view points of both sides on the line of retrenchment relief only because in the case of J. S. Tripathi and Girija Shankar Bajpai I have already observed that the question of absorption of the retrenched employees of Kanpur Branch of this Bank is in uncertain condition and it would not be safe to leave the parties in an indefinite position when it rests at the discretion of the employer to reinstate where possible as observed by their lordships of the Labour Appellate Tribunal in the case of Fertilizer & Chemicals, Travancore, Ltd., (published in Labour Law Journal—August 1951). Coming to the assessment of retrenchment relief I would allow in this case also one month's salary plus allowances for each completed year of service. The Bank is accordingly directed to pay the amount at the rate of salary that the petitioner was drawing at the time of his discharge within one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman*.

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

8th January, 1952.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALIYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A—Application No. 141.

BANK OF JAIPUR LTD.

In the matter of an application dated 10 August 1951, under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri Iqbal Shankar Tripathi, of Bank of Jaipur Ltd., Kanpur Branch through the U.P. Bank Employees Union.

*Appearances*

Shri V. N. Sekhri of U.P. Bank Employees Union, for the applicant.

Shri R. K. Jwala, Agent, Bareilly Branch, for the Bank.

AWARD

IQBAL SHANKAR TRIPATHI:

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950, and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The services of this petitioner were terminated on 16th January 1951, along with others on the closure of Kanpur Branch. The Union representative arguing on his behalf submitted that the arguments advanced in the cases of Shri Jai Shankar Tripathi and Girija Shankar Bajpai be also considered in his case as the petitioner's case stands on the same footing. The Bank representative also stated likewise and consequently I am left to appreciate the view points of both sides on the line of retrenchment relief only because in the case of J. S. Tripathi and Girija Shankar Bajpai I have already observed that the question of absorption of the retrenched employees of Kanpur branch of this Bank is in uncertain condition and it would not be safe to leave the parties in an indefinite position when it rests the discretion of the employer to reinstate where possible as observed by their lordships of the Labour Appellate Tribunal in the case of Fertilizer & Chemicals, Travancore, Ltd., (published in Labour Law Journal—August 1951). Coming to the assessment of retrenchment relief I would allow in this case also one month's salary plus allowances for each completed year of service. The Bank is accordingly directed to pay the amount at the rate of salary that the petitioner was drawing at the time of his discharge within one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman,*

Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

8th January, 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A. LL.B., Chairman.

Section 33-A—Application No. 20.

## HIND BANK LTD

In the matter of an application dated 30th May, 1951, under section 33-A of the Industrial Disputes Act (as amended), preferred by Shri K. N. Sharma, Hind Bank Ltd., Agra Branch.

## Appearances:

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.

Shri K. R. Hari, Secretary, for the Bank.

## AWARD

K. N. SHARMA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The services of the petitioner were terminated on account of the closure of Agra Branch of this Bank. The case as such is therefore one of retrenchment and the Union representative while giving facts explained the background which led to the closure of the branch. It was stated that certain prosecutions were lodged against several Banks including this Bank in regard to the implementation of interim relief which was ultimately given. But some time after the Bank closed the branch to punish the employees who used to participate in Trade Unionism. It was alleged *inter-alia* that Shri Sharma was an active member of the Union and his services were terminated on account of his activities during the pendency of Tribunal's proceedings i.e. before the publication of the U.P. State Bank disputes award in Reference No. L.R.2(273), dated 21st February, 1950. In the circumstances permission under section 33 was also necessary which was not obtained and as such the discharge of the employees was illegal.

4. Shri K. R. Hari, Bank representative, in reply submitted that so far as implementation of the interim relief was concerned the amount was paid to the applicant Shri K. N. Sharma and also to Shri S. N. Bhattacharyya as evidenced from Exhibits 1 and 2 produced. In regard to the closure of the branch it was urged that the branch was closed on account of the exigencies of the situation as the branch was running at a loss, and the closure had no connection with the application of interim relief or the Trade Union activities of the applicant. It was stressed that this was not the only branch but the Bank had to close half a dozen branches elsewhere as an economic measure. Regarding the objection of pendency of proceedings it was argued that only one case of Hind Bank was pending but the same was also disposed of earlier and as such there was no pendency at the time of the closure of the branch. Finally, it was submitted that the Bank tried their best to absorb some of the retrenched employees and actually was able to absorb J. P. Kanojia, whose name is at No. 4 in the Cause List. It was concluded

that the Bank was not lacking in helping the discharged employees but had not the capacity to absorb everyone and as such the act of the Bank was not *mala fide*. Replying to the contention that the principle of 'last come first go' was not applied it was submitted that Shri Sharma and Shri Bhattacharjee were juniormost in the cadre.

5. The facts and arguments given above are explicit enough to conclude that the closure of Agra Branch was not due to the reasons explained by the Union representative. More than one branches were closed and it is futile to urge that a number of branches were closed in bad faith in order to mar the future of the employees. The stand taken up by Bank representative Shri K. R. Hari accordingly appears to be supported by the facts and circumstances of the case with the result that the only question which falls for determination is one of retrenchment relief. The question of absorption in this Bank also appears to be problematic. The Bank representative furthermore maintained that the members of the staff were consulted before the closure of the branch and their views were placed before the Directors as evidenced from Exhibits 3 and 4. These two documents reveal that the Chief Accountant was heard on behalf of the Agra branch employees and his memorandum was considered by the Directors in their meeting of 21st December 1950. Ex. 4 is a copy of the representation dated 15th December 1950 made on behalf of the staff wherein all aspects of the closure were discussed. The Board however, resolved after due consideration of all the points raised by the employees that the branch be closed as evidenced from Ex. 3. In these circumstances I do not see any good reason to doubt the *bona fide* of the employer for the closure of the branch as urged from the Union side. In regard to the assessment of retrenchment relief as compensation I think one month's salary plus allowances for each completed year of service would meet the ends of justice. I direct the Bank accordingly to pay the amount at the rate of the salary of the petitioner which he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

8th January 1952.

## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA.

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri. B.A., LL.B., *Chairman*.

Section 33-A Application No. 20.

HIND BANK LTD.

In the matter of an application dated 30th May, 1951, under section 33-A of the Industrial Disputes Act (as amended), preferred by Shri Nemi Chand Jain of Hind Bank Ltd., Agra Branch.

### *Appearances*

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.,

Shri K. R. Hari, Secretary, for the Bank.

### AWARD

NEMI CHAND JAIN

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd.,

Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. This case is also one of retrenchment and the Union representative while giving facts explained the background which led to the closure of the branch. It was stated that certain prosecutions were lodged against several Banks including this Bank in regard to the implementation of interim relief, which was ultimately given. But some time after the Bank closed the branch to punish the employees who used to participate in Trade Unionism. In the case of Shri N. C. Jain it was alleged that he was an active member of the Union and his services were terminated on account of his labour activities during the pendency of Tribunal's proceedings, before the publication of the U.P. State Bank disputes award in Reference No. LR 2(273) dated 21st February 1950. In the circumstances permission under section 33 was also necessary which was not obtained and as such the discharge of the employee was illegal.

4. Shri K. R. Hari, Bank representative, in reply submitted that so far the implementation of the interim relief was concerned the amount was paid to Shri K. N. Sharma and Shri S. N. Bhattacharyya as evidenced from Exhibits 1 and 2 (produced in the case of K. N. Sharma). In regard to the closure of the branch it was submitted that the branch was closed on account of the exigencies of the situation as the branch was running at a loss, and the closure had no connection with the application of interim relief or the Trade Union activities of the applicant. It was stressed that this was not the only branch but the Bank had to close half a dozen branches elsewhere as an economic measure. Regarding pendency of proceedings, it was argued that there was only one case of Hind Bank pending but the same was also disposed of earlier and as such there was no pendency at the time of the closure of the branch. Finally, it was submitted that the Bank tried their best to absorb the retrenched employees and was able to absorb actually one of the employees *viz.*, J. P. Kanojia whose name is at No. 4 in the Cause List. It was concluded that the Bank was not lacking in helping the discharged employees but had not the capacity to absorb everyone and as such the act of the Bank was not *mala fide*. Replying to the contention that the principle of 'last come first go' was not applied it was submitted that the applicant was juniormost in the cadre.

5. The facts and arguments given above are explicit enough to conclude that the closure of Agra Branch was not due to the reasons explained by the Union representative. More than one branches were closed and it is futile to urge that a number of branches were closed in bad faith in order to mar the future of the employees. The stand taken up by Bank representative, Shri K. R. Hari, accordingly appears to be supported by the facts and circumstances of the case with the result that the only question which falls for determination is one of retrenchment relief. The question of absorption in this Bank also appears to be problematic. The Bank representative furthermore maintained that the members of the staff were consulted before the closure of the branch and their views were placed before the Directors as evidenced from Exhibits 3 and 4 (in K. N. Sharma's case). These two documents reveal that the Chief Accountant was heard on behalf of the Agra Branch employees and his memorandum was considered by the Directors in their meeting of 21st December 1950. Ex. 4 (in K. N. Sharma's case) is a copy of the representation dated 15th December 1950 made on behalf of the staff wherein all aspects of the closure were discussed. The Board, however, resolved after due consideration of all the points raised by the employees that the branch be closed as evidenced from Ex. 3 (in K. N. Sharma's case). In the circumstances I do not see any good reasons to doubt the *bona fides* of the employer for the closure of the branch as urged by the Union side. In regard to the assessment of retrenchment relief as compensation, I think one month's salary plus allowances for each completed year of service would meet the ends of justice. I direct the Bank accordingly to pay the amount at the rate of the salary of the petitioner which he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;

8th January 1952.



## CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

## Section 33-A—Application No. 22

## HIND BANK LTD.

In the matter of an application, dated 30th May 1951, under section 33-A of the Industrial Disputes Act (as amended), preferred by Shri S. N. Bhattacharji of Hind Bank Ltd., Agra Branch.

*Appearances:*

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.

Shri K. R. Hari, Secretary, for the Bank.

## AWARD

## S. N. BHATTACHARJI

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. LR.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The services of the petitioner were terminated on account of the closure of Agra Branch of this Bank. The case as such is, therefore, one of retrenchment and the Union representative while giving facts explained the background which led to the closure of the branch. It was stated that certain prosecutions were lodged against several Banks including this Bank in regard to the implementation of interim relief which was ultimately given. But sometime after the Bank closed the branch to punish the employees who used to participate in Trade Unionism. In the case of Shri S. N. Bhattacharji it was alleged that he was an active member of the Union, and his services were terminated on account of his labour activities during the pendency of Tribunal's proceedings before the publication of the U.P. State Bank disputes award in Reference No. LR.2(273), dated 21st February 1950. In the circumstances permission under section 33 was necessary which was not obtained and as such the discharge of the employee was illegal.

4. Shri K. R. Hari, Bank representative, in reply submitted that so far the implementation of the interim relief was concerned the amount was paid to the applicants Shri K. N. Sharma and was also to Shri S. N. Bhattacharyya as evidenced from Exhibits 1 and 2 (produced in the case of K. N. Sharma). In regard to the closure of the branch it was submitted that the branch was closed on account of the exigencies of the situation as the branch was running at a loss, and that the closure had no connection with the application of interim relief or the Trade Union activities of the applicant. It was stressed that this was not the only branch but the Bank had to close half a dozen branches elsewhere as an economic measure. Regarding the pendency of proceedings, it was argued that there was only one case of Hind Bank pending but the same was also disposed of earlier and as such

there was no pendency at the time of the closure of the branch. Finally, it was submitted that the Bank tried their best to absorb and was able to absorb one of the employees viz. J. P. Kanojia whose name is at No. 4 in the Cause List. It was concluded that the Bank was not lacking in helping the discharged employees but had not the capacity to absorb everyone and as such the act of the Bank was not *mala fide*. Replying to the contention that the principle of 'last come first go' was not applied it was submitted that the applicant was juniormost in the cadre.

5. The facts and arguments given above are explicit enough to conclude that the closure of Agra Branch was not due to the reasons explained by the Union representative. More than one branches were closed and it is futile to urge that a number of branches were closed in bad faith in order to mar the future of the employees. The stand taken up by Bank representative Shri K. R. Hari accordingly appears to be supported by the facts and circumstances of the case with the result that the only question which falls for determination is one of retrenchment relief. The question of absorption in this Bank also appears to be problematic. The Bank representative furthermore maintained that the members of the staff were consulted before the closure of the branch and their views were placed before the Directors as evidenced from Exhibits 3 and 4 (in K. N. Sharma's case). These two documents reveal that the Chief Accountant was heard on behalf of the Agra Branch employees and his memorandum was considered by the Directors in their meeting of 21st December 1950. Ex. 4 (in K. N. Sharma's case) is a copy of the representation dated 15th December 1950 made on behalf of the staff where in all aspects of the closure were discussed. The Board, however, resolved after due consideration of all the points raised by the employees that the branch be closed as evidenced from Ex. 3 (in K. N. Sharma's case). In the circumstances I do not see any good reason to doubt the *bona fides* of the employer for the closure of the branch as urged from the Union side. In regard to the assessment of retrenchment relief as compensation I think one month's salary plus allowances for each completed year of service would meet the ends of justice. I direct the Bank accordingly to pay the amount at the rate of the salary of the petitioner which he was drawing at the time of discharge within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman*,  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;

8th January 1952.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A—Application No. 23

HIND BANK LTD.

In the matter of an application dated 30th May 1951 under section 33-A of the Industrial Disputes Act (as amended) preferred by Shri J. P. Kanojia of Hind Bank Ltd., Agra Branch.

#### Appearances:

Shri B. D. Sharma of U.P. Bank Employees Union, for the applicant.

Shri K. R. Hari, Secretary, for the Bank.

#### AWARD

J. P. KANOJIA

1. This is one of the 140 applications filed under Section 33-A of Industrial Disputes Act (as amended) emanating from Uttar Pradesh. The application was admitted and notice was issued to the other side during the pendency of the industrial dispute pertaining to various banks referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication under Notification No. L.R.2(273), dated 21st February 1950 and as such it was taken seisin of without any formal reference for adjudication.

2. On the completion of the pleadings, the hearing was fixed at Lucknow in the third week of December 1951. The representatives of Central Bank of India Ltd., National Bank of India Ltd., Allahabad Bank Ltd., Bank of Baroda Ltd., Punjab National Bank Ltd., United Commercial Bank Ltd., Habib Bank Ltd., Bank of Jaipur Ltd., Hind Bank Ltd., Hindusthan Commercial Bank Ltd., Hindusthan Mercantile Bank Ltd., and Bharat Bank Ltd., as well as the representatives of the U.P. Bank Employees Union attended the proceedings. Each application was heard individually but in the case of Bharat Bank, on the suggestion of parties, the applications were divided into various groups owing to the identical nature of facts and same arguments were applied in each case for the purpose of facility. A separate award is, however, necessary in each application under the provisions of Section 33-A and consequently all applications are dealt with separately for the purpose of adjudication.

3. The petitioner was discharged from service on the closure of Agra Branch and had filed this application under section 33-A of the Act asking for reinstatement. The Bank had also filed a written statement and opposed the application in the first instance. It was however stated at the time of hearing that Shri Kanojia has been taken back in service and the case was withdrawn by the U.P. Bank Employees Union on his behalf. The Bank representative also admitted the fact that the petitioner has been taken back in service. The application accordingly is deemed to have been withdrawn and need no adjudication. The same is filed.

K. S. CAMPBELL-PURI, *Chairman,*  
Central Government Industrial Tribunal,  
Calcutta.

CALCUTTA;  
8th January 1952

[No. LR-90(140).]

N. C. KUPPUSWAMI, *Under Secy.*

